HISTORIC PROPERTY PRESERVATION CREDIT

39-22-514

- 1) Categories of taxpayers. For purposes of determining the allowable historic property preservation credit with respect to the rehabilitation of a building in Colorado commencing prior to June 3, 1999, there are three categories of taxpayers:
 - a) Taxpayers who are allowed to claim the federal rehabilitation investment credit as provided in section 38 (and as computed in section 47) of the Internal Revenue Code:
 - b) Taxpayers who are not allowed to claim the federal rehabilitation investment credit but who are allowed to claim the Colorado enterprise zone rehabilitation of vacant building credit as provided in section 39-30-105.6, C.R.S.; and
 - c) Taxpayers who are not allowed to claim either the federal rehabilitation investment credit or the Colorado enterprise zone rehabilitation of vacant building credit.
- 1.1) Any taxpayer who is allowed to claim the enterprise zone rehabilitation of vacant building credit as allowed by section 39-30-105.6, C.R.S., may not claim the historic property preservation credit with respect to the same rehabilitation. [Taxpayers who are allowed to claim the federal income tax rehabilitation investment credit may not claim the enterprise zone rehabilitation of vacant building credit with respect to the same rehabilitation, per C.R.S. 39-30-105.6(2)].
- 1.5) Effective for projects commenced on or after June 3, 1999, the credit under this section will apply to income tax years beginning prior to January 1, 2020. Regulation 39-22-514(1) is not applicable to projects commenced on or after June 3, 1999. Effective for rehabilitation commenced on or after June 3, 1999, for purposes of determining the allowable historic property preservation credit with respect to the rehabilitation of a building in Colorado, there are two categories of eligible taxpayers:
 - a) Taxpayers who are eligible to claim the Colorado enterprise zone rehabilitation of vacant building credit as provided in section 39-30-105.6, C.R.S.; and
 - b) Taxpayers who are not eligible to claim the enterprise zone credit, but are allowed the credit where they meet specific terms of this section 514.
- 2) Amount of credit allowed Effective for projects commenced before June 3, 1999.
 - a) The historic property preservation credit for those taxpayers who are allowed to claim the federal rehabilitation investment credit is ten percent of the federal credit as computed for the same tax year disregarding any federal carryover or carryback credits and disregarding any federal current year credit limitations. The federal rehabilitation investment credit is the sum of ten percent of the (federal) qualified expenditures with respect to any qualified rehabilitated building other than a certified historic structure, plus twenty percent of the qualified rehabilitation expenditures with respect to any certified historic structures. (Under C.R.S. 39-22-514(2)(b), as it existed prior to amendment effective June 3, 1999.)
 - b) Any taxpayer who claims the enterprise zone rehabilitation of vacant building credit as allowed by section 39-30-105.6, C.R.S., may not claim the historic

property preservation credit with respect to the same rehabilitation. (Taxpayers who claim the federal rehabilitation investment credit (paragraph a) above) may not claim the enterprise zone rehabilitation of vacant building credit with respect to the same rehabilitation.) [Under C.R.S. 39-22-514(1)(b), as it existed prior to amendment effective for rehabilitation commenced on or after June 3, 1999.]

- c) Taxpayers who may claim neither the federal rehabilitation investment credit or the enterprise zone rehabilitation of vacant building credit but who incur qualified costs in an amount equaling or exceeding five thousand dollars in the qualified rehabilitation of qualified property may claim an historic property preservation credit of the lesser of \$50,000 per qualified property or an amount equal to twenty percent of the aggregate qualified costs incurred per qualified property. The credit allowed under this paragraph c) for any given tax year may not exceed \$2,000 plus 50% of the taxpayer's tax liability in excess of \$2,000. (Under C.R.S. 39-22-514(2)(a), prior to amendment effective for rehabilitation commencing on or after June 3, 1999.)
- 2.5) Credit Limitations, Rehabilitation Commenced On or After June 3, 1999.
 - a) The statute at 39-22-514(2)(b) and the regulation 39-22-514.2(a) are not applicable to projects commenced on or after June 3, 1999, but the limitation of 39-22-514(2)(b) applies for projects commenced prior to June 3, 1999,
 - b) Effective June 3, 1999, taxpayers whether or not they claim the federal rehabilitation investment credit who incur qualified costs in an amount equaling or exceeding five thousand dollars in the qualified rehabilitation of qualified property may claim an historic property preservation credit of the lesser of \$50,000 per qualified property or an amount equal to 20% of the aggregate qualified costs incurred per qualified property. Effective June 3, 1999, the credit may be claimed up to the amount of Colorado income tax liability.
- 3) Year in which credit may be claimed.
 - a) The historic property preservation credit is allowed for taxable years beginning on or after January 1, 1991, but before January 1, 2020, subject to the limitations set forth in paragraph b) of this subsection 3).
 - b) For tax years beginning on or after January 1, 2011, but before January 1, 2020 the credit will not be allowed unless the December legislative council revenue forecast issued prior to the tax year indicates that the total state general fund appropriations grew by at least six percent over such appropriations for the previous fiscal year. In the event that the credit is not allowed for the tax year in which the qualifying costs are incurred because of the preceding limitation, the taxpayer incurring the qualifying costs will be allowed to claim the credit in the next tax year in which the forecast indicates that the total state general fund appropriations grew by at least six percent over such appropriations for the previous fiscal year.
 - c) If the amount of the credit allowed exceeds the amount of the tax due for the tax year in which the credit is allowed, the excess credit shall not be refunded, but may be carried forward to the next tax year. The restriction set forth in paragraph b) of this subsection 3) does not apply to any excess credits claimed and allowed in prior years and carried forward.

- d) A claim for credit in a tax year beginning on or after January 1, 2020 will be allowed only if the claim of the credit has been postponed due to the restrictions set forth in paragraph b) of subsection 3).
- e) If a taxpayer's historic property preservation credit is determined by reference to his federal rehabilitation investment credit, the historic property preservation credit shall be allowed in the same year the federal rehabilitation investment credit is allowed. (Effective for rehabilitation commenced prior to June 3, 1999.)
- f) If the historic property preservation credit is determined under the provisions of C.R.S. 39-22-514(2)(a) and paragraph 2)c) of this regulation, the credit is to be claimed for the year in which the qualified rehabilitation is completed except as provided in paragraph 4) below.
- 4) Incomplete Rehabilitation. If the approved rehabilitation is not completed as of the close of the taxpayer's last taxable year beginning prior to January 1, 2000, the taxpayer may claim a credit for such last taxable year with respect to the qualified expenditures incurred prior to January 1, 2000. Effective for rehabilitation commenced prior to June 3, 1999.
- 5) Incomplete Rehabilitation. If the approved rehabilitation is not completed as of the close of the taxpayer's last taxable year beginning prior to January 1, 2020, the taxpayer may claim a credit for such last taxable year with respect to the qualified expenditures incurred prior to January 1, 2020.
- 6) For rehabilitation commenced prior to June 3, 1999, excess historic property preservation credit may be carried forward for a period of up to five years. For rehabilitation commenced prior to June 3, 1999, the amount of credit in any carry forward year, regardless of how the credit was computed, shall be limited to the first \$2,000 of the taxpayer's tax liability for such carry forward year plus 50% of such liability in excess of \$2,000. For rehabilitation commenced on or after June 3, 1999, the historic property preservation is not limited by a percentage of tax liability and may be carried forward for a period of up to ten years.